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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,438	07/18/2003	David Welch	2336	4938

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EXAMINER

BURROWES, LAWRENCE J

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/622,438

Applicant(s)

WELCH, DAVID

Examiner

LAWRENCE J. BURROWES

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/17/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :5/22/2006, 6/23/2005 & 3/15/2004.

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. Claims 7, 9 and 13 are objected to because of the following informalities:

In claim 7 line 2, the recitation of "incoming packet-data" seems to refer to "incoming packet-data" in claim 6, if this is true, it is suggested applicant change to ---the incoming packet-data---

In claim 9 line 4, the recitation of "media" seems to refer to "media" in claim 1, if this is true, it is suggested applicant change to ---the media---

In claim 13 line 1, the recitation of "a client station a user-request to initiate a real-time media session" seems to refer to "a client station a user-request to initiate a real-time media session" in claim 11, if this is true, it is suggested applicant change to --
- the client station the user-request to initiate the real-time media session ---.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-7, 11-13, 16-19 rejected under 35 U.S.C. 102(e) as being anticipated by Mangal et al (2003/019088) hereafter Mangal.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

For claims 1-7 and 11-13, Mangal discloses receiving at a client cellular mobile station a user-request to initiate a real-time media session (see paragraphs 102 and 103, the user of the mobile station pushes a button to initiate the data); thereafter waiting for the client station to determine that the client station has acquired a radio link data connection (see paragraph 60, the mobile station establishes communication by a radio link) through which to initiate the requested real-time media session (see paragraphs 102 and 103); and in response to a determination that the client station has acquired the incoming packet-based signaling message (see paragraph 27, mobile station sends and

receives messages for establishing the session) for the data connection, the client station beginning to buffer a digital representation of voice and video (see paragraph 113) provided by the user, for later transmission of the media into a packet-switched network (see paragraphs 102 and 103).

For claims 16-19, Mangal discloses a client station comprising: a processor (see Figure 2 Box 50); data storage (see Figure 2 Box 52); push-to-talk button for initiating the push-to-talk session (see paragraph 64, the input is a PTT button); wireless interface (see Figure 2 Box 46) for radio link layer communication with a radio access network; program logic stored in the data storage and executable by the processor (i) to make a determination that the client station has acquired a data connection when the client station receives incoming packet data and (ii) in response to the determination, to begin buffering voice and video (see paragraph 113) media provided by a user, for subsequent transmission of the media via a packet-switched network (see paragraphs 102-103), same as the method discussed in claim 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mangal in view of Maggenti et al (6,477,150) hereafter Maggenti.

For claims 9 and 10, Mangal disclose all the subject matter of the claimed invention with the exception of providing an audible or visual alert notice to the user, in response to the determination that the client station has acquired the data connection, whereby the notice serves to inform the user that the user should begin providing media to the client station.

Maggenti from the same or similar field of endeavor teaches providing an audible or visual alert notice to the user, in response to the determination that the client station has acquired the data connection, whereby the notice serves to inform the user that the user should begin providing media to the client station (see column 6 lines 11-23, user is notified by an alert when transmission granted).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify/implement the alert mechanism of Maggenti into the push-to-talk system of Mangal by programming the mobile station to output

the desired alerts when connections are made. The motivation to do so would be so that the user would know when their voice or video data was transmitted to the user or when the user was not available.

8. Claims 8, 14, 15 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Mangal in view of Ehram et al (7,020,098) hereafter Ehram.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

For claims 8, 14, 15 and 21, Mangal disclose all the subject matter of the claimed invention with the exception of the client station is a wireless device that is

seeking to acquire a data connection over which to send and receive the packet-based session initiation messages, which are Session Initiation Protocol (SIP) INVITE and TRYING messages; comprises seeking to acquire a radio link layer connection with a radio access network.

Ehrsam from the same or similar fields of endeavor teaches the client station is a wireless device that is seeking to acquire a data connection over which to send and receive the packet-based session initiation messages, which are Session Initiation Protocol (SIP) INVITE and TRYING messages (see column 4 lines 46-60 and Figure 2); comprises seeking to acquire a radio link layer connection with a radio access network (see column 5 lines 47-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify/implement the SIP messaging of Ehrsam into the push-to-talk system of Mangal by programming the server to response to the INVITE message sent by the mobile station. The motivation for doing so would be so that the mobile station would know when it was granted permission to transmit or signal the user.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Qualcomm (Dispatch Services on cdma2000).
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAWRENCE J. BURROWES whose telephone number

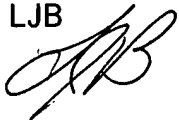
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is (571) 270-1419. The examiner can normally be reached on Monday - Thursday 8am - 2pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing F. Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LJB



WING CHAN
SUPERVISORY PATENT EXAMINER